

Panaji, 19th January, 2017 (Pausa 29, 1938)

SERIES II No. 42

# OFFICIAL GAZETTE



# GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

*Note:- There are five Extraordinary issues to the Official Gazette, Series II No. 41 dated 12-01-2017 as follows:—*

- (1) *Extraordinary dated 12-01-2017 from pages 821 to 822 regarding Order from Department of Home.*
- (2) *Extraordinary (No. 2) dated 13-01-2017 from pages 823 to 832 regarding Orders from Department of Home.*
- (3) *Extraordinary (No. 3) dated 16-01-2017 from pages 833 to 834 regarding Notifications from Goa Legislature Secretariat.*
- (4) *Extraordinary (No. 4) dated 16-01-2017 from pages 835 to 836 regarding Order from Department of Home.*
- (5) *Extraordinary (No. 5) dated 18-01-2017 from pages 837 to 844 regarding Order from Department of Home.*

## GOVERNMENT OF GOA

Department of Education, Art & Culture

Directorate of Education

### Order

No. 1-1(2)-2006/SE/1297

Whereas, Smt. Maria A. Dias, Headmaster, Government High School, Shristhal, Canacona vide

letter dated 14-8-2013 had given notice for Voluntary Retirement with the request to accept the same with effect from 12-09-2013.

And whereas, the Directorate of Education vide letter No. 1-1(9)-2007/SE/466 dated 7-10-2013 had requested the details of qualifying service of said Smt. Maria A. Dias from the Directorate of Accounts.

And whereas, the Directorate of Accounts, South Branch, Margao vide letter No. DA/SB/OS/2016-17/2285 dated 25-11-2016 has certified that the said Smt. Maria A. Dias has completed the qualifying service of 24 years 01 month and 06 days as on 12-09-2013.

Now, therefore, Government is pleased to accept the above notice of voluntary retirement of Smt. Maria A. Dias, Headmaster w.e.f. 12-09-2013 (f.n.) by curtailing the notice period of three months under Sub-Rule (3-A) (b) of Rule 48-A of CCS (Pension) Rules, 1972.

Accordingly, she stands retired voluntarily from Government services w.e.f. 12-09-2013 (f.n.).

By order and in the name of the Governor of Goa.

*Gajanan P. Bhat*, Director & ex officio Joint Secretary (Education).

Porvorim, 22nd December, 2016.

### Order

No. 1(2)-1-2015/SE/01

Government is pleased to order transfer and posting of the following Headmasters, Government High Schools under the Directorate of Education, Porvorim, as detailed below with immediate effect:-

Sr. No.	Name of Headmaster	Present posting	Place of posting on transfer
1	2	3	4
1.	Smt. Sujata D. Gaonkar	Headmaster, Government High School, Savarde-Satari	Headmaster, Government High School, Vaddem, Curdi, Sanguem against vacant post, thereby relieving Smt. Vanita S. Prabhudessai from the additional charge.

1	2	3	4
2.	Smt. Seema Anil Gaonkar	Headmaster, Government High School, Valkini-Sanguem	Headmaster, Government High School, Savarde-Satari.

Smt. Sujata D. Gaonkar shall also look after the charge of Headmaster, Government High School, Valkini, Sanguem in addition to her own duties until further orders.

The transfer of Smt. Sujata D. Gaonkar is at her own request and hence she is not entitled to claim T. A./D.A. and joining time as per rules in force. The transfer of Smt. Seema Anil Gaonkar is in public interest.

Smt. Seema Anil Gaonkar shall get self relieved and should move first.

The date of relieving/joining should be communicated the respective Zonal Offices under intimation to this office.

G. P. Bhat, Director & ex officio Jt. Secretary (Education).

Porvorim, 3rd January, 2017.

### Order

No. 1-1(9)-2016/SE/02

On the recommendation of the Goa Public Service Commission as conveyed vide letter No. COM/II/12/15(2)/2016/484 dated 23-12-2016, Government is pleased to declare lifting of probation period and confirmation of the following Officers against the post of Vice-Principal, Teachers Training College/Headmaster, Govt. High School/Vice-Principal, Govt. Higher Secondary School in the Directorate of Education with effect from the date of successfully completion of their probation period as shown in column No. 4 below against their respective names :-

Sr. No.	Name of the Officers	Date of regular appointment as Vice Principal, Teacher's Training College/Headmaster, Govt. High Schools/ /Vice Principal, Govt. Hr. Sec. Schools	Date of successfully completion of probation period	Remarks
1	2	3	4	5
1.	Shri M. V. Gadgil	03-01-2007	02-01-2009	Promoted on ad hoc basis as Dy. Education Officer/Principal GHSS/VE.O. Jt. Secretary GBSHSE/Dy. Director, SIE.
2.	Smt. Sunita N. Rajderkar/ /Nasnodkar	03-01-2007	02-01-2009	-do-
3.	Shri Fondu Savlo Naik alias Narayan Savlo Naik	03-01-2007	02-01-2009	-do-
4.	Smt. Vishaka D. Pusekar	03-01-2007	02-01-2009	-do-
5.	Smt. Pushpa S. Pawaskar alias R. S. Bandodkar	03-01-2007	02-01-2009	-do-
6.	Shri Ramkrishna Hegde	03-01-2007	02-01-2009	—
7.	Smt. Luisa Maria Joao	03-01-2007	02-01-2009	—
8.	Shri Vishnu B. Shinde	03-01-2007	02-01-2009	—
9.	Shri Subhash R. Mandrekar	03-01-2007	02-01-2009	—
10.	Shri Jaiwant W. Naik	03-01-2007	02-01-2009	—
11.	Smt. Lira Alvares Vasconcalos/ /Souza	03-01-2007	02-01-2009	—

1	2	3	4	5
12.	Kum. Geraldina Luiza Mendes	03-01-2007	02-01-2009	—
13.	Shri Jose Francisco Gomes	03-01-2007	02-01-2009	Promoted on ad hoc basis as Dy. Education Officer/Principal, GHSS/VE.O. Jt. Secretary-GBSHSE/Dy. Director, SIE.
14.	Shri Vinay D. Sahakari	03-01-2007	02-01-2009	—
15.	Smt. Asha R. Naique	03-01-2007	02-01-2009	—
16.	Smt. Daksha Yatin Gulavani	03-01-2007	02-01-2009	—
17.	Smt. Tami Thereza D'Souza	03-01-2007	02-01-2009	—
18.	Smt. Lina e Ferrao Fernandes	03-01-2007	02-01-2009	—
19.	Smt. Sucheta S. Burye	03-01-2007	02-01-2009	—
20.	Dr. Richard Cabral	03-01-2007	02-01-2009	—
21.	Smt. Carmel D'Souza	03-01-2007	02-01-2009	—
22.	Smt. Maria Coradina de Jesus Pereira	03-01-2007	02-01-2009	—
23.	Shri Shaikh Amruddin	03-01-2007	02-01-2009	—
24.	Shri Atchutanand V. Vernekar	03-01-2007	02-01-2009	—
25.	Smt. Kavita M. Naik Gaunkar	30-06-2008	29-06-2010	—
26.	Shri Dayanand Chawdikar	30-06-2008	29-06-2010	—
27.	Smt. Anjali B. Malik	30-06-2008	29-06-2010	—
28.	Shri Mrutyunjay D. Angadi	30-06-2008	29-06-2010	—
29.	Smt. Celina A. Dias	30-06-2008	29-06-2010	—
30.	Shri Sairoj B. Dessai	30-06-2008	29-06-2010	—
31.	Shri Riyaz Ahmed Jamadhar	30-06-2008	29-06-2010	—
32.	Smt. Gouravva Hebballi	30-06-2008	29-06-2010	—
33.	Smt. Debora R. Fernandes	30-06-2008	29-06-2010	—
34.	Shri Govind Vaman Naik	29-04-2010	28-04-2012	—
35.	Smt. Reshma V. Verenkar alias Chanekar	29-04-2010	28-04-2012	—
36.	Smt. Rita Fatima Fernandes e Caldeira	29-04-2010	28-04-2012	—
37.	Smt. Jayashree P. Hebbalkar alias Sheetal Kadam	29-04-2010	28-04-2012	—
38.	Shri Antonio Paul Braganza	29-04-2010	28-04-2012	—
39.	Smt. Ana Graca D'Sa	23-03-2011	22-03-2013	—
40.	Smt. Jyotsna Sarin	23-03-2011	22-03-2013	—
41.	Smt. Bertha Sardinha	23-03-2011	22-03-2013	—
42.	Smt. Rajashree S. Haldankar @ Redkar	23-03-2011	22-03-2013	—
43.	Shri Sudesh N. Naik	23-03-2011	22-03-2013	—
44.	Shri Sudan Fati Naik Gaonkar	23-03-2011	22-03-2013	—
45.	Smt. Regina M. Carvalho Dias	23-03-2011	22-03-2013	—
46.	Shri Devidas H. Kudav	03-08-2012	02-08-2014	—
47.	Shri Srikrishna S. Naik	03-08-2012	02-08-2014	—
48.	Shri Jotiba I. Mali	03-08-2012	02-08-2014	—
49.	Shri Pradeep G. Masurkar	03-08-2012	02-08-2014	—
50.	Shri Sanjay N. Diukar	03-08-2012	02-08-2014	—

*Gajanan P. Bhat*, Director & ex officio Joint Secretary (Education).

Porvorim, 3rd January, 2017.

## Department of Finance

Debt Management Division

## Notification

No. 2/8/2010-Fin(DMU) P. F./462

Read: Notification No. 2/8/2010-FIN (DMU) P. F. dated 21-04-2015.

Government is pleased to accept the resignation tendered by Shri Sidharth Kuncalienkar as a Chairman of Economic Development Corporation Ltd., w.e.f. 11-01-2017 and consequently to appoint Secretary (Finance) to the post of Chairman, EDC, with immediate effect until further orders.

By order and in the name of the Governor of Goa.

Michael M. D'Souza, Additional Secretary (Finance).

Porvorim, 17th January, 2017.

## Department of General Administration

## Order

No. 35/4/2005/GAD-III/100

Read: Order No. 35/4/2005-GAD dated 27-05-2013.

Order No. 35/4/2005-GAD dated 27-07-2016.

In partial modification of the Government order read in preamble, the Governor of Goa is pleased to re-designate the following officers as Public Information Officer, Assistant Public Information Officer and First Appellant Authority in respect of the Office of the Chief Minister/all Ministers, Minister Block, Porvorim as required under Section 5 and sub-section (1) of Section 19 of the Right to Information Act, 2005.

Office concerned	Designation of the Officer appointed as PIO	Designation of the Officer appointed as APIO	Designation of the Officer appointed as FAA
Chief Minister/ /Ministers	Under Secretary attached to the Chief Minister/all Ministers	1. Senior Assistant attached to Office of Chief Minister 2. Personnel Assistant attached to Office of Ministers	Additional/Joint Secretary (GA).

Varsha S. Naik, Under Secretary (GA).

Porvorim, 9th January, 2017.

## Department of Labour

## Order

No. 24/4/2011-Lab-ESI/06

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/28(1)/2012/480 dated 22-12-2016, Government is pleased to declare satisfactory completion of probation as well as confirmation of the following Insurance Medical Officers in E.S.I. Scheme, under the Office of the Commissioner, Labour & Employment with effect from the date of their completion of probation period:

Sr. No.	Name of the Insurance Medical Officer	Date of joining	Date of completion of probation period
1	2	3	4
1.	Dr. Amavel Pereira	13-07-2011	12-07-2013
2.	Dr. Poonam D. Gaonkar (ST)	13-07-2011	12-07-2013
3.	Dr. Anil Chauhan	24-08-2012	23-08-2014
4.	Dr. Saroj Salelkar	24-08-2012	23-08-2014
5.	Dr. Anantprajva S. Shirodkar	24-08-2012	23-08-2014
6.	Dr. Gayatri Mardolkar@ Jadhav	24-08-2012	23-08-2014

1	2	3	4
7.	Dr. Sulakshana P. Naik	31-08-2013	30-08-2015
8.	Dr. Sidhesh L. Tirodkar	02-09-2013	01-09-2015

By order and in the name of the Governor of Goa.

*Georgina Saldanha*, Under Secretary (Labour).

Porvorim, 3rd January, 2017.

### Order

No. 28/56/2016-LAB/23

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Royal Orchid Beach Resort and Spa, Uttorda Beach, Salcete Goa, and its workman, Mr. Chandan Phadte, Manager EDP, represented by the Gomantak Mazdoor Sangh in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7 of the said Act.

### SCHEDULE

"(1) Whether Mr. Chandan Phadte, Manager EDP, can be construed as "workman" as per Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?

(2) If the answer to issue No. (1) above is in the affirmative, then, whether the action of the management of M/s. Royal Orchid Beach Resort and Spa, Uttorda Beach, Salcete, South Goa, in refusing employment to Mr. Chandan Phadte, Manager EDP, with effect from 03-11-2015, is legal and justified?

(3) If the answer to the issue No. (2) above is in the negative, then, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

*Georgina Saldanha*, Under Secretary (Labour).

Porvorim, 9th January, 2017.

### Notification

No. 28/1/2016-LAB/Part-V/08

The following award passed by the Labour Court-II at Panaji-Goa on 17-10-2016 in reference No. LC-II/IT/23/13 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Georgina Saldanha*, Under Secretary (Labour).

Porvorim, 2nd January, 2017.

IN THE LABOUR COURT-II  
GOVERNMENT OF GOA  
AT PANAJI

(Before **Shri Suresh N. Narulkar**,  
**Hon'ble Presiding Officer**)

Case No. Ref. LC-II/IT/23/13

Smt. Archana Kare,  
"KAMAL",  
Behind Holy Spirit Church,  
Medsai, Margao-Goa ... Workperson/Party I  
V/s

The Goa Urban Co-operative  
Bank Limited,  
Head Office, P. O. Box No. 135,  
Panaji-Goa ... Employer/Party II  
Workperson/Party I represented by Shri Subhash Naik George.

Employer/Party II represented by Adv. Shri G. K. Sardessai.

Panaji, Dated: 17-10-2016.

### AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 04-07-2013, bearing No. 28/27/2013-LAB/457 referred the following dispute for adjudication to the Industrial

Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal cum Labour Court in turn assigned the present dispute to this Labour Court-II of Goa for its adjudication vide her order dated 08-07-2013.

"(1) Whether the action of the Management of the Goa Urban Co-operative Bank Limited, Panaji-Goa, in dismissing from service its workperson Smt. Archana Kare, Clerk, with effect from 20-11-2012, is legal and justified?

(2) If not, what relief the Workperson is entitled to?"

2. On receipt of the reference, a case was registered under No. LC-II/IT/23/13 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workperson/Party I (for short 'Workperson') filed her Statement of Claim on 07-10-2013 at Exb. 5. The facts of the case, in brief as pleaded by the Workperson are that she was employed with the Employer/Party II (for short "Employer") as a Clerk with effect from 01-09-1976. She stated that initially she was posted at the head office of the Employer till 26-04-1978. She stated that thereafter, she worked at Margao branch till 15-07-1990, pursuant to her transfer. She stated that she worked at Vasco branch till the date of her wrongful termination w.e.f. 20-11-2012, pursuant to her re-transfer. She stated that all the workmen of the Employer are the members of a trade union namely Goa Urban Co-op. Bank Employees Union. She stated that Mr. Subhash Naik George is the President of the said union. She stated that she was elected as General Secretary of the said union in the year 2009 and again, in the year 2011 at the general body meeting of the said union.

3. She stated that she was issued a letter dated 05-03-2010, directing her to give a written statement regarding the incident of theft that had occurred in the Vasco branch of the Employer on 19-02-2010. She stated that vide her letter dated 13-03-2010, she replied to the said letter of the Employer. She stated that she was thereafter issued a notice of preliminary enquiry, informing her that a preliminary investigation would be conducted by Mr. Vijay A. Palekar. She stated that she attended the said preliminary enquiry, before Adv. Shri Vijay A. Palekar, however, no copy of proceedings were given to her. She stated that thereafter, the Employer issued to her a charge-sheet dated 26-07-2010, alleging certain acts of misconduct against her. She stated that upon receipt of the said charge-sheet, she requested the Employer

bank to supply her documents on which basis, she has been issued a charge-sheet, in order to enable her to submit reply to the said charge-sheet, by her letter dated 28-07-2010. She stated that the Employer bank, however, did not bother to reply to her letter, nor supplied the documents, but straight away went ahead with the enquiry proceedings.

4. She stated that Mr. Prasanna C. Chawdikar, Advocate was appointed as Enquiry Officer, to hold enquiry in respect of charge-sheet dated 26-07-2010. She stated that Mr. Gaurish N. Agni, Advocate was appointed as Management Representative. She stated that the Enquiry Officer conducted an enquiry in respect of the said charge-sheet issued to her and submitted his findings, by holding her guilty of charges of misconduct levelled against her, vide his findings dated 31-08-2012. She stated that thereafter, the Employer issued her, a show-cause notice dated 15-10-2012, enclosing the findings of the Enquiry Officer and asked to show-cause, as to why she should not be dismissed from service. She stated that vide her letter dated 06-11-2012, she replied to the said show-cause notice of the Employer bank. She stated that pursuant to her reply dated 06-11-2012, the Employer issued a letter of dismissal dated 17-11-2012, dismissing her from service, with effect from 20-11-2012. She submitted that aggrieved by the decision of the Employer in dismissing her from services w.e.f. 20-11-2012, she raised an industrial dispute, in the matter of alleged illegal termination of her services, and demanded for her reinstatement with full back wages and continuity in service before the Appellate Authority of the Employer. She stated that a copy of the said letter was marked to the Commissioner, Labour & Employment, Panaji, Goa, for her intervention. She stated that the Labour Commissioner, Panaji-Goa, admitted her dispute in conciliation, however, the said dispute ended in failure.

5. The Workperson challenged termination of her services w.e.f. 20-11-2012, by contending to be not only illegal and unjustified, but also malafide, vindictive and as and by way of victimization for her trade union activities. The Workperson submitted that the departmental enquiry conducted against her, is in gross violation of the principles of natural justice as well as the service rules applicable to the Employer bank. She submitted that the said charge-sheet is vague as there are no allegations leveled against her in the said charge-sheet. She submitted that the contents of para 1 to 5 of the said charge-sheet are statement of facts and not allegations of misconduct. She submitted that in the said charge-sheet issued to

her, no allegations of misconduct have been leveled against her, though she have been charged for misconduct namely (e) and (j).

6. She submitted that during the course of enquiry, she had raised certain preliminary objections before the Enquiry Officer, vide her representation dated 04-09-2010, pertaining to holding of the enquiry. She submitted that the Ld. Enquiry Officer has however, mechanically and wrongly disallowed her preliminary objections and gave ruling in favour of the Employer bank. She submitted that the Enquiry Officer gave his findings mechanically, without application of mind and without there being any evidence on record to hold her guilty of the charges leveled against her. She submitted that the said findings of the Enquiry Officer are vague and biased in favour of the Employer bank. She submitted that the said findings of the Enquiry Officer are also perverse and without any proper reasonings. She submitted that there is no allegation that she disobeyed any order of the Employer bank, but the Enquiry Officer has held her guilty of willful insubordination or disobedience of any lawful and reasonable order of the management. She submitted that the charges leveled in the charge-sheet has not been proved in the enquiry at all. She submitted that in fact, it has come in the evidence on record that the Oriental Insurance Company has made good the amount of Rs. 5,00,000/- which was robbed from the bank, while cash was in transit from the Employer bank to the I.D.B.I. bank. She submitted that there is nothing in the enquiry proceedings that she has disobeyed any lawful and reasonable order of the management or had indulged in willful insubordination.

7. She submitted that the charges leveled against her in the charge-sheet is a minor misconduct as per service conditions/bipartite settlement applicable to her. She submitted that in terms of clause (j) of the Service Condition namely "neglect of work, negligence in performing duties, the maximum punishment is warning or censure or adverse remark in service record or have her increment stop for a period not longer than six months. She submitted that the punishment of dismissal cannot be imposed on her for negligence as per service condition/bipartite settlement. She submitted that at the time of dismissal, the Employer bank did not pay her gratuity till date. She stated that the Employer did not consider her past record, while dismissing her from services as required under the service condition. She submitted that even assuming for the sake arguments and without admitting that the charges

are proved, the punishment of dismissal imposed upon her is highly disproportionate and extremely harsh, considering the facts and circumstances of the case. She submitted that this Hon'ble Labour Court has powers u/s 11 of the I. D. Act to reassess the evidence and reduce the punishment, taking into consideration the facts and circumstances of the case.

8. She submitted that during her tenure as General Secretary of the union, the union had gone on two days strike and indefinite strike action, which was unlike by the Employer bank. She stated that several employees were transferred after the strike action and the Employer bank was looking at opportunity to strike at her at appropriate time. She submitted that since the date of her termination, she is unemployed and have no source of income. She stated that her husband is retired and drew a small amount of pension. She stated that besides, her husband has some money in investment, from which, he draw some interest. She submitted that with the help of her husband's income, she is able to make both ends meet. She therefore prayed that she be reinstated in service with full back wages and continuity in service with cost and interest.

9. The Employer resisted the claim of the Workperson, by filing its written statement on 05-11-2013 at Exb.6. The Employer, as and by way of preliminary objections, submitted that the reference is bad-in-law and hence not maintainable and that the present dispute of the Workperson is not an 'industrial dispute' as defined under the I. D. Act, 1947. The Employer further submitted that there is non-application of mind by the Appropriate Government, while referring the present dispute.

10. The Employer admitted that the Workperson, was employed with them as a 'Clerk' at its Vasco branch. The Employer stated that on 19-02-2010, the Workperson was instructed by its Branch Manager to deposit a cash of Rs. 3,00,000/- in the I.D.B.I. bank. The Employer stated that after some time, her superior, Mrs. Amita Bhanguai instructed her to deposit Rs. 5,00,000/- instead of Rs. 3,00,000/- in the I.D.B.I. bank. The Employer stated that accordingly, the Workperson prepared a debit slip, payment voucher and posted the transaction in the computer to that effect. The Employer stated that the Workperson also entered an entry in cash register and sent the same for approval of the concerned officer i.e. Mrs. Amita Bhanguai. The Employer stated that after the Workperson sent the register and the voucher to Mrs. Amita Bhanguai,

she instructed Mr. Ramnath Chodankar, sub-staff to accompany the Workperson to I.D.B.I. bank for depositing a cash of Rs. 5,00,000/-. The Employer stated that on having received her instructions, the Workperson went to the payment cashier alongwith Mr. Ramnath Chodankar, sub-staff and collected from the payment cashier, Mrs. Milinda Dessai an amount of Rs. 5,00,000/-. The Employer stated that the Workperson also signed the register maintained by Mrs. Milinda Dessai towards the receipt of cash of Rs. 5,00,000/-. The Employer stated that on receipt of cash of Rs. 5,00,000/- the Workperson handed over the same to the sub-staff Mr. Ramnath Chodankar. The Employer stated that the cash was placed in the dickey of the scooter of the bank by Mr. Ramnath Chodankar. The Employer stated that thereafter, both of them proceeded to the I.D.B.I. bank for the purpose of depositing the same amount. The Employer stated that the scooter was driven by Mr. Ramnath Chodankar. The Employer stated that after reaching the I.D.B.I. bank, the cash was found missing from the dickey of the scooter driven by Mr. Ramnath Chodankar. The Employer stated that the cash has not been traced till date. The Employer therefore decided to conduct enquiry against the Workperson for the commission of act of misconduct as spelt out in the service condition applicable to her, namely "willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior and doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss".

11. The Employer stated that accordingly, it has issued a charge-sheet cum notice of enquiry dated 26-07-2010 to the Workperson. The Employer stated that the Workperson did not submit her reply to the charge-sheet cum notice of enquiry. The Employer stated that the Enquiry Officer submitted his findings, after appreciating the evidence on record and held that the Workperson is guilty of the charges of misconduct levelled against her, vide charge-sheet cum notice of enquiry. The Employer stated that it has considered the proceedings of the enquiry, the findings of the Enquiry Officer and concurred with the same. The Employer submitted that considering the gravity of proved misconduct, it has decided to discharge the Workperson from the services. The Employer stated that the Workperson was accordingly served with a show-cause notice dated 15-10-2012, as to why she should not be dismissed from service. The Employer stated that the Workperson filed her reply to the aforesaid show-cause notice issued to her.

The Employer stated that after carefully perusing the contents of the said reply to the show-cause notice and once again going through the proceedings of the enquiry and the findings of the Enquiry Officer, they did not find the explanation of the Workperson satisfactory and hence it has decided to dismiss the Workperson from the service.

12. The Employer submitted that the Workperson was involved in the incident and had the responsibility to deposit the amount given in her physical possession. The Employer stated that the said amount was stolen from her due to her negligence. The Employer stated that the Workperson was asked by the Branch Manager, Vasco, by its letter dated 05-03-2010 to give a written statement about the incident. The Employer stated that from her conduct in handling cash, it can be inferred that the Workperson was negligent, while discharging the work of cash deposit, which was entrusted to her. The Employer admitted that as it was a preliminary investigation in the matter and fully confidential in nature, wherein the statement of all concerned staff related to the incident were taken and there was no need to provide copy of proceedings to all the concerned, including the Workperson. The Employer submitted that the preliminary enquiry is not a part of the departmental enquiry and hence has not affected the outcome of the said enquiry. The Employer stated that in the charge-sheet itself, the Workperson was informed that she may produce such documents, she may deemed necessary to produce and that she was also permitted to be defended by a co-employee of her choice and was also informed that she shall be given all the opportunities put forward her views/defenses. The Employer submitted that the bank has offered all the opportunities to the Workperson to defend herself in the enquiry and as such the Workperson had an opportunity to give place all her defenses in the enquiry before the Enquiry Officer. The Employer submitted that all the documents, on which basis the charge-sheet was issued, were given to the Workperson during the course of enquiry and the representative of the Workperson have acknowledged for having received the same. The Employer submitted that the charge-sheet clearly states that there is a loss of Rs. 5,00,000/- given in physical possession of the Workperson. The Employer submitted that the said cash is lost, due to sheer negligence of the Workperson and not obeying the instructions to carry the cash as per the rules of the bank. The Employer stated that there is a bankers indemnity insurance policy with the Oriental Insurance Company Ltd. The Employer

stated that the sum insured under this policy is Rs. 3,00,00,000/-, in which, basic sum insured is Rs. 7,50,000/-, sum insured on premium is Rs. 1,92,50,000/- and sum insured in transit is Rs. 1,00,00,000/-. The Employer stated that this policy gives indemnity against the losses to the bank, the bank has insured under this since the year 1990 and continuous till date. The Employer stated that the insurance company gives discount in the yearly premium, if there is no claim to the insurance. The Employer stated that there is provision in the policy that the insured shall bear the first 25% of each item or 2% of the basic sum insured, whichever is higher. The Employer therefore submitted that the bank has not received a total amount of Rs. 5,00,000/- as stated by the Workperson. The Employer stated that since that year, the bank has lost on its discount in the form of no claim bonus. The Employer stated that the bank has received Rs. 4,63,700/- only, thereby short fall of Rs. 36,300/-. The Employer stated that the bank has lost on no claims discounts on its yearly premium, due to this claim to the insurance company since 2011 till date, which amounting to Rs. 8,26,904/-. The Employer stated that the said amount of no claim discount has been forfeited forever and every year. The Employer stated that it has to suffer this loss due to the claim of Rs. 5,00,000/-. The Employer stated that the Workperson was given all the documents, on which the charge-sheet was based upon in the enquiry.

13. The Employer admitted that the gratuity is not paid to the Workperson. The Employer submitted that as per Sec. 4 (6) (a) of the Payment of Gratuity Act, 1972, the gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of property belonging to the Employer, shall be forfeited to the extent of damage or loss so caused and accordingly the gratuity has been fully forfeited and not paid to the Workperson. The Employer submitted that the Enquiry Officer, on the basis of evidence on record submitted a reasoned findings, holding the Workperson guilty of the charges leveled against her. The Employer stated that it has considered the findings of the Enquiry Officer, concurred with the same and considering the gravity of proved misconducts, decided to dismiss her from service. The Employer submitted that they have conducted the enquiry in fair and proper manner and in the event, this Hon'ble Court set aside the same on any of the ground, they may be permitted to lead evidence before this Hon'ble Court to prove the charges of misconduct leveled against the

Workperson. The Employer denied the overall case as pleaded by the Workperson and prayed for dismissal of the present reference with cost.

14. Thereafter, the Workperson filed her Rejoinder on 19-11-2013 at Exb.7. The Workperson, by way of her Re-joinder, confirms and reiterates all the submissions and averments made by her in her claim statement to be true and correct and denies all the statements and averments made by the Employer in the Written Statement, which are contrary to the statements and averments made by her. The Workperson submitted that the Employer did not take into account her clean past record before imposing the punishment, which is mandatory.

15. Based on the pleadings filed by the parties herein above respectively, this court framed certain issues on 04-12-2013 at Exb. 9.

1. Whether a fair, proper & impartial enquiry was conducted against the Workman/Party I in accordance with the principles of natural justice?
2. Whether the charges of the mis-conduct leveled against Workman/Party I vide charge-sheet dated 26-07-2010 has been proved to the satisfaction of this court by acceptable evidence?
3. Whether the Workman/Party I proves that the action of the Employer/Party II in dismissing her services w.e.f. 20-11-2012 is illegal and unjustified?
4. Whether the Employer/Party II proves that the present Order of Reference issued by Government of Goa is bad-in-law in view of the allegations made in paras a, b and c of its Written Statement?
5. Whether the Workman/Party I is entitled to any relief?
6. What Order? What Award?

16. My answers to the aforesaid issues are as under:

- |                      |   |
|----------------------|---|
| (a) Issue No. 1:     | In the affirmative.                                   |
| (b) Issue No. 2:     | Partly in the affirmative and partly in the negative. |
| (c) Issue No. 3:     | In the affirmative.                                   |
| (d) Issue No. 4:     | In the negative.                                      |
| (e) Issue No. 5 & 6: | As per final order.                                   |

## REASONS:

17. *Issue Nos. 1 and 2:*

Vide order dated 28-10-2015, passed in my findings on the preliminary issue nos. 1 and 2, I have come to the conclusion and held that a free, fair and proper enquiry has been conducted against the Workperson, in respect of the charge-sheet dated 26-07-2010 and that the Employer could prove only one charge of misconduct at Sr. No. (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss as spelt out in the said charge-sheet dated 26-07-2010, to the satisfaction of this court by acceptable evidence and the another charge at Sr. No. (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior, has not been proved. The issue No. 1 is therefore answered in the affirmative and issue No. 2 is answered partly in the affirmative and partly in the negative.

18. *Issue No. 4:*

I am deciding the issue No. 4 first, prior to the issue No. 3 as the said issue No. 3 goes to the very root jurisdiction of this court.

The Employer, in its written statement filed in the present proceedings, as and by way of preliminary objections, submitted that the present reference filed by the Workperson is bad-in-law and hence not maintainable and that the present dispute of the Workperson is not an 'industrial dispute' as defined under the Industrial Disputes Act, 1947. The Employer further submitted that there is non-application of mind by the Appropriate Government while referring the present dispute. I have heard the oral arguments of the Ld. Rep. Shri Subhash Naik George, appearing for the Workperson as well as Ld. Adv. Shri G.K. Sardesai, appearing for the Employer Bank. I have also carefully considered the oral submissions made by the Ld. Representatives appearing for the respective parties. I have also carefully perused the records of the present case.

19. The Employer, in its written statement filed in the present proceeding, as and by way of preliminary objections, contended that the present reference filed by the Workperson is bad-in-law and hence not maintainable, that the present dispute of the Workperson is not an industrial dispute as defined under the Industrial Disputes Act, 1947 and that there is non-application of mind by the Appropriate Government while referring the present dispute. The said pleadings of the

Employer are vague in nature, as it does not disclose any justification in support of its pleadings. The Employer has also failed to produce on record any material evidence, either oral or documentary, in support of its aforesaid allegations.

20. Even otherwise, in the case in hand, it is not in dispute that the Party I is a 'workman' within the meaning of section 2(s) of the I.D. Act, 1947. It is also not in dispute that the Party II Bank is an 'Employer' within the meaning of section 2(j) of the I.D. Act, 1947. Hence, the present dispute raised by the Workperson against the Employer Bank pertaining to her non-employment is an 'industrial dispute' within the meaning of section 2(k) of the I.D. Act, 1947 and as such, this court has every jurisdiction to adjudicate the present reference. Consequently, the Employer failed to prove its allegations that the reference is bad-in-law for any reasons, that the present dispute raised by the Workperson is not an 'industrial dispute' as defined under the Industrial Dispute Act, 1947 and that there is non-application of mind by the Appropriate Government while referring the present dispute. The issue No. 4 is therefore answered in the negative.

21. *Issue No. 3:*

I have heard the oral arguments of Ld. Rep. Shri Subhash Naik George, appearing for the Workperson as well as Ld. Adv. Shri G. K. Sardesai, appearing for the Employer.

22. Ld. Rep. Shri Subhash Naik George, representing the Workperson, during the course of his oral arguments, submitted that the Workperson was issued a charge-sheet dated 26-07-2010, by alleging charges of misconduct, namely (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss and (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior. He submitted that by order dated 28-10-2015, passed on the findings on the preliminary issue No. 1 and 2, this Hon'ble Court has held that a free, fair and proper enquiry has been conducted against the Workperson, in respect of the charge-sheet dated 26-07-2010 and that the Employer could prove only one charge of misconduct at Sr. No. (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss as spelt out in the said charge-sheet dated 26-07-2010, to the satisfaction of this court by acceptable evidence and the another charge at Sr. No. (e) willful insubordination or disobedience

of any lawful or reasonable order of the management or of a superior, has not been proved. He submitted that the Workperson was in the employment of the Employer Bank continuously from 01-09-1976 till the date of her wrongful dismissal w.e.f. 20-11-2012. He submitted that except the aforesaid misconduct, the Workperson was never issued any memo or charge-sheet alleging any act of misconduct against her in her long service with the Employer Bank. He submitted that the Workperson was elected as the general secretary of the trade union namely Goa Urban Co-op. Bank Employees union in the year 2009 and again in the year 2011, which was affiliated to All Goa Co-op. Bank Employees Federation. He submitted that the said union has signed bipartite settlement with the Employer Bank from time to time revising wages and service conditions of its members. He submitted that clause 12 (1) of the said bipartite settlement on record at Exb.24 specifies the misconduct on the part of the employees. He submitted that Clause 12 (2) of the said bipartite settlement classifies the misconduct as minor misconducts and major misconducts. He submitted that sub clause (a) to (q) of the said clause 12 (2) of the said bipartite settlement have been termed as major misconducts. He therefore submitted that the misconduct of negligence proved against the Workperson is a minor misconduct. He submitted that the Employer Bank has recovered an amount of Rs. 4,63,700/- out of the alleged theft of the amount of Rs. 5,00,000/- from the Oriental Insurance Co. Ltd., after adjusting the deductions under the Banker's Blanket Policy No. 163700/48/2010/167 and thus the Employer Bank has hardly suffered a loss to the extent of Rs. 36,300/- He therefore submitted that taking into consideration, the past clean, unblemished record of the Workperson, in her long service and also taking into consideration, the proved minor misconduct of negligence, the punishment of dismissal imposed on the Workperson is extremely harsh and disproportionate to the facts and circumstances of the case. He submitted that Section 11 of the I.D. Act, 1947 empowers the Labour Court to re-assess the evidence and reduce the punishment taking into consideration the facts and circumstances of the case. In support of his oral submissions, he relied upon a judgment of Hon'ble Supreme Court of India, in the case of *Kailash Nath Gupta v/s. Enquiry Officer (R.K. Rai), Allahabad Bank and Ors.*, reported in 2003 II CLR 72.

23. On the contrary, Ld. Adv. Shri G. K. Sardessai, representing the Employer Bank, during the course of his oral arguments submitted that the

Workperson was issued a charge-sheet dated 26-07-2010, alleging an act of misconduct of (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss and (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior. He submitted that by order dated 28-10-2015, passed on the findings on the preliminary issue Nos. 1 and 2, this Hon'ble Court has held that a free, fair and proper enquiry has been conducted against the Workperson in respect of the charge-sheet dated 26-07-2010 and that the Employer could prove only one charge of misconduct at Sr. No. (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss as spelt out in the said charge-sheet dated 26-07-2010, to the satisfaction of this court, by acceptable evidence and the another charge at Sr. No. (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior, has not been proved. He submitted that due to the said act of negligence on the part of the Workperson, the Employer Bank has not only suffered huge monetary loss, but also, lost the faith created by its several customers, by depositing their amount in the custody of the Employer Bank. He therefore submitted that the misconduct levelled and proved against the Workperson is a major misconduct. He submitted that as a result of commission of the said misconduct, the Employer lost confidence reposed in the Workperson. He submitted that thus taking into consideration the facts and circumstances of the entire case as well as the seriousness of the proved misconduct levelled against the Workperson, the punishment of dismissal imposed upon her is just, fair and proper and proportionate to the proved misconduct. In support of his oral submissions, he relied upon two judgment of Hon'ble Supreme Court of India one in the case of ***Bharat Heavy Electricals Ltd. v/s. M. Chandrashekhar Reddy and Ors.***, reported in (2005) 2 SCC 481 and another in the case of ***Homba Gowda Educational Trust and Anr., v/s. State of Karnataka and Ors.***, reported in (2006) 1 SCC 430.

I have carefully perused the entire records of the present case. I have considered the oral submissions advanced by the Ld. Rep. Shri Subhash Naik George, appearing for the Workperson as well as Ld. Adv. Shri G. K. Sardessai, appearing for the Employer Bank and is of the considered opinion as under.

24. It appears from the pleadings of the Workperson, filed in the present proceedings that she has challenged her order of dismissal, mainly on the ground that the enquiry held against her, is not fair and proper and that the charges of misconduct leveled against her, vide charge sheet dated 26-07-2010, have not been proved to the satisfaction of this Court, by acceptable evidence. The Workperson finally contended that without prejudice and without admitting that the charges of misconduct are proved against her, the punishment of dismissal meted out to her is highly disproportionate and extremely harsh as per the bipartite settlement, negligence is a minor misconduct.

25. In the case of **Mahindra and Mahindra Ltd. v/s. N.B. Narawade reported in 2005 (I) CLR 803**, the Hon'ble Supreme Court has held that *"It is no doubt true that after introduction of Section 11-A in the I.D. Act, 1947, certain amount of discretion is vested with the Labour Court/Industrial Tribunal in interfering with the quantum of punishment awarded by the management where the workman concerned is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion, which can be exercised under Sec. 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which require the reduction of the sentence or past conduct of the workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power u/s. 11-A of the Act and reduce the punishment"*.

26. In the case of **Chairman & Managing Director, United Commercial Bank and Other V/s P. C. Kakkar.**, reported in 2003 – LLR 436, the Hon'ble Supreme Court of India has held that *"the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. Only where the Court finds that a punishment is shockingly disproportionate it must record reasons for coming to such conclusion and mere expression that the punishment is shockingly disproportionate could not meet the requirement of law. Further the*

*charges against Respondent not being casual in nature, but being serious, the High Court was not justified in interfering with the quantum of punishment"*.

27. The Principle laid down by the Hon'ble Supreme Court of India, in its aforesaid respective judgments is well established and there is no dispute about the same. Thus, it is settled law that the discretion of the court to alter or reduce the punishment as empowered u/s. 11-A of the I.D. Act, 1947 is not absolute. The discretion, which can be exercised u/s 11-A is available only on the existence of certain factors, like punishment being disproportionate to the gravity of misconduct, so as to disturb the conscience of the Court, or the existence of any mitigating circumstances, which requires the reduction of the sentence or the past conduct of the Workman, which may persuade the Labour Court to reduce the punishment.

28. Vide order dated 28-10-2015, passed in my findings on the preliminary issue No. 1 and 2, I have come to the conclusion and held that a free, fair and proper enquiry has been conducted against the Workperson in respect of the charge-sheet dated 26-07-2010 and that the Employer could prove only one charge of misconduct at Sr. No. (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss as spelt out in the said charge-sheet dated 26-07-2010, to the satisfaction of this court by acceptable evidence and the another charge at Sr. No. (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior, has not been proved.

29. Hence, the contentions of the Workperson that no fair and proper inquiry has been conducted against her, is without any merits. As regards the charges leveled against her, vide charge-sheet dated 26-07-2010, have not been proved at all, it is partly correct to the extent of charge at Sr. No. (e) willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior.

Thus, the only question remains to be decided is that the punishment of dismissal from service imposed upon the Workperson is proportionate to the proved misconduct.

30. The evidence on record indicates that the service conditions of the Workperson as well as other employees of the Employer Bank are governed by the said bipartite settlement signed between the Employer with its employees union, which is

on record at Exb. 24. Clause XII (1) of the said bipartite settlement (Exb. 24) specifies certain acts or omissions among others as misconduct on the part of the employee in addition to what has been defined in Staff Accountability Policy of the Employer Bank, which are numbered as (a) to (hh). Clause XII (2) of the said bipartite settlement categorized the said misconducts as stated in Clause XII (1) as major misconducts and minor misconducts. As per the said clause XII (2) of the said bipartite settlement, sub-clause (a) to (q) of Clause XII (1) have been termed as major misconducts and sub-clause (r) to (hh) of Clause XII (1) have been termed as minor misconducts. Similarly Clause XV of the said bipartite settlement specifies various punishments. Sub-Clause (1) of Clause XV of the bipartite settlement laid down punishments to an employee, who found guilty of gross misconducts such as (a) be dismissed without notice, or (b) be warned or censured, or have an adverse remark entered against him, or (c) be fined, or (d) have his increment stopped, or (e) have his misconduct condoned and be merely discharged, or (f) be suspended without wages for not exceeding 15 days. Similarly, Clause (2) of Clause XV of the bipartite settlement laid down punishments to an employee, who found guilty of minor misconducts may (a) be warned or censured, or (b) have an adverse remark entered against him, or (c) have his increment stopped for a period not longer than six months.

31. The Employer Bank also framed its Staff Accountability Policy in pursuance to the directions of Reserve Bank of India. The said Staff Accountability Policy of the Employer Bank laid down certain guidelines pertaining to the working of its Employer and which forms the service conditions of the employees of the Employer Bank in addition to its bipartite settlement. It defines the term 'Accountability' and it means being responsible for one's own actions/inactions. It further defines the staff accountability as 'ownership for action taken or not taken, when the situation called for such action'. The said Staff Accountability Policy has been classified as System Accountability and Human Accountability. Further, the term human accountability has been attributed to any of the following (a) bonafide mistake, (b) gross indifference/negligence and (c) malafide intentions. As per the said policy, any action/absence of action resulting in revenue loss/leakage, but without malafide intentions has been specified as gross indifference/negligence.

32. In the case in hand, undisputedly, the Workperson was working with the Employer Bank as a 'Clerk' continuously w.e.f. 01-09-1976 till the date of dismissal of her services w.e.f. 20-11-2012. The Workperson was not issued any single memo or charge-sheet in her entire service period with the Employer Bank, except the charge-sheet dated 26-07-2010. It is not in dispute that the Workperson was a member of the Goa Urban Co-op. Bank Employees Union, which was affiliated to All Goa Co-op. Bank Employees Federation. It is further not in dispute that the Workperson was elected as a general secretary in the year 2009 and again re-elected in the year 2011 in the general body meeting of the said union. The misconduct charged, vide charge-sheet dated 26-07-2010 and proved against the Workperson is "(j) doing any act prejudicial to the interest of the bank or gross negligence or negligence or likely to involve the bank in serious loss". The said act of misconduct on the part of the Workperson has been termed as major misconduct in terms of clause 12 of the bipartite settlement at Exb. 24. The said misconduct is altogether different than the misconduct specified at sub-clause (t) of clause XII misconduct i.e. "neglect of work, negligence in performing duties", which is a minor misconduct.

33. The allegations levelled in the charge-sheet issued to the Workperson are that on receipt of cash of Rs. 5,00,000/-, she handed over the to the sub-staff Mr. Ramnath Chodankar, that the cash was placed in the dicky of the scooter of the bank by Mr. Ramnath Chodankar, that thereafter, both proceeded to IDBI bank on the scooter of the bank for the purpose of depositing the said amount, that the said scooter was driven by the said Mr. Ramnath Chodankar and that after reaching the IDBI bank the cash was found missing from the dicky of the scooter driven by Mr. Ramnath Chodankar. The evidence on record indicates that the Employer bank lodged an FIR in Vasco Police Station in respect of the said missing amount of Rs. 5,00,000/- against an unknown person. The aforesaid act/omission on the part of the Workperson is a gross indifference/negligence within the meaning of Staff Accountability Policy of the Employer. Taking into consideration, the entire facts and circumstances of the case and the role played by the Workperson, it does not show any malafide intension of the Workperson.

34. The evidence on record indicates that the Employer Bank has recovered an amount of Rs. 4,63,700/- out of the alleged theft of the amount of Rs. 5,00,000/- from the Oriental Insurance Co. Ltd. after adjusting the deductions under the

Banker's Blanket Policy No.163700/48/2010/167. Thus, the Employer Bank suffered instant loss to the extent of Rs. 36,300/-. Further, it is implied that as a consequences of aforesaid claim made by the Employer Bank to the Oriental Insurance Co. Ltd., it has lost no claim discount on its yearly premium, which the Employer Bank would have otherwise entitled from the insurance company. Thus, the Employer suffered a huge loss every year on its yearly payment of the premium.

35. Taking into consideration the past clean, unblemished record of the Workperson in her 36 years prolong service in the Employer bank, the allegations levelled in the charge-sheet issued to her, explanation submitted by the Workperson to the show-cause notices issued to her etc. in my considered opinion, the punishment of dismissal imposed on the Workperson is extremely harsh and disproportionate to the facts and circumstances of the case. The said punishment of dismissal from service is bad-in-law & hence set aside.

36. Ld. Adv. Shri G. Sardessai, representing the Employer Bank, during the course of his oral arguments submitted that the order of termination issued to the Workperson is just and fair and in proportionate to the act of misconduct committed by her as it lost the confidence reposed in the Workperson. Upon perusal of the dismissal order dated 17-11-2012 (Exb.22) issued to the Workperson, it does not indicate that the said dismissal of the Workperson was on account of loss of confidence nor does it disclose the mitigating circumstances. Hence, I do not agree that the Employer dismissed the service of the Workperson on account of loss of confidence.

37. In the case of **Kailash Nath Gupta (supra)**, the Hon'ble Supreme Court of India in para 11 and 12 of its judgment observed as under:-

*"11.....in the background or what has been stated above, one thing is clear that the power of interference with the quantum of punishment is extremely limited. But when relevant factors are not taken note of, which have some bearing on the quantum of punishment, certainly the court can direct re-reconsideration or in an appropriate case to shorten litigation, indicate the punishment to be awarded. It is stated that there was no occasion in the long past service indicating either irregularity or misconduct of the appellant except the charges which were the subject matter of his removal from service. The stand of the appellant as indicated above is that though small advances may have become irrecoverable, there is nothing to indicate that the appellant had misappropriated any money or had*

*committed any act of fraud. If any loss has been caused to the bank (which he quantifies at about Rs. 46,000/-) that can be recovered from the appellant. As the reading of the various articles of charges go to show, at the most there is some procedural irregularity which cannot be termed to be negligence to warrant the extreme punishment of dismissal from service.*

*12. These aspects do not appear to have been considered by the High Court in the proper perspective. In the fitness of things, therefore, the High Court should examine these aspects afresh. The consideration shall be limited only to the quantum of punishment and not to any other question. As the appellant would have superannuated in the normal course in the year 1994, and the matter is pending for a long time, the High Court is requested to dispose of the matter within six months from the date of receipt of this order. It is made clear that no opinion has been expressed by us as to what would be the appropriate punishment. In this view the impugned order is set aside".*

The facts of the aforesaid case before the Hon'ble Apex Court are totally different than the case in hand and as such the principle laid down by the Hon'ble Apex Court is not applicable to the case in hand.

38. In the case of **Hombe Gowda Education Trust and Anr. (supra)** before the Hon'ble Apex Court, the Respondent No. 3, a teacher, was charge-sheeted for commission of a serious offence. He was found guilty by the Tribunal of having assaulted the Principal of the institution. Both the Tribunal as also the High Court have arrived at a concurrent finding of fact that despite grave provocation on the part of the Principal, Respondent No.3 cannot be absolved of the charges levelled against him. It may be true that no departmental disciplinary proceeding was initiated against the Principal of the institution, but the same by itself would not be a relevant fact for imposing a minor punishment upon the respondent. It may further be true that Respondent 3 committed the offence under a grave provocation, but the Tribunal as also the High Court categorically held that the charges against him were established. The Hon'ble Apex Court, further held that *"Assaulting a superior at a workplace amounts to an act of gross indiscipline. The respondent is a teacher. Even under grave provocation, a teacher is not expected to abuse the head of the institution in a filthy language and assault him with a chappal. Punishment of dismissal from services, therefore cannot be said to be wholly disproportionate, so as to shock one's conscience".*

The facts of the aforesaid case before the Hon'ble Apex Court are totally different than the case in hand and as such the principle laid down by the Hon'ble Apex Court is not applicable to the case in hand.

39. In the case of **Bharat Heavy Electricals Ltd. (supra)**, before the Hon'ble Apex Court, the Respondent terminated the services of the Appellant, the Assistant Grade I by holding disciplinary enquiry on account of his misconduct that he had stealthily taken away the title documents of the properties deposited with the Employer as a security towards equitable mortgage created in favour of the Appellant. The Labour Court held that the punishment of dismissal from service is harsh in the circumstances. The Single Bench as well as Division Bench of Hon'ble High Court dismissed the writ petitions as well as writ appeal filed by the parties. The Respondent therefore filed the appeal before the Hon'ble Apex Court. The Hon'ble Supreme Court, while allowing the appeal filed by the Appellant in para 26 of its judgment observed as under:

*"26. That apart, the reasons given by the Labour Court to reduce penalty are reasons which are not sufficient for the purpose of reducing the sentence by using its discretionary power. The fact that the misconduct now alleged is the first misconduct again is no ground to condone the misconduct. On the facts of this case as recorded by the Labour Court the loss of confidence is imminent and no finding has been given by the courts below, including the Labour Court, that either the fact of loss of confidence or the quantum of punishment is so harsh as to be vindictive or shockingly disproportionate. Without such finding based on records, interference with the award of punishment in a domestic inquiry is impermissible."*

The facts of the aforesaid case before the Hon'ble Apex Court are totally different than the case in hand and as such the principle laid down by the Hon'ble Apex Court is not applicable to the case in hand.

It is therefore held that the Workperson succeeded in proving that the action of the Employer in dismissing her service w.e.f. 20-11-2012 is illegal and unjustified. The issue No. 3 is therefore answered in the affirmative.

40. Issue No. 5:

While deciding the issue No. 3 hereinabove, I have come to the conclusion and held that the action of the Employer in dismissing the Workperson from its service with effect from

20-11-2012, is illegal and unjustified, being extremely harsh and disproportionate to the proved misconduct.

41. In the case of **Deepali Gundu Surwase v/s. Kranti Junior Adhyapak Mahavidyalaya (D. ED.) and Ors.**, reported in (2013) 10 SCC 324, the Hon'ble Apex Court has held that if the order of termination is void ab initio, the Workman is entitled to full back wages. The relevant para of the decision is extracted hereunder:

*"22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."*

The principle laid down by the Hon'ble Apex Court is well recognized and is also applicable to the case in hand.

42. In the case in hand, the evidence on record indicates that the Workperson was in the employment of the Employer bank continuously from 01-09-1976 till the date of her illegal date of dismissal from service w.e.f. 20-11-2012. The evidence on record indicates that except the misconduct of gross negligence as stated in the present case, the past records of the Workperson is clean and unblemished. In terms of clause 9 of the 8th bipartite settlement at Exb. 26, the age of retirement of the employees of the Employer bank is 58 years and that ordinarily, the management shall have right to extend the retiring age by three years in certain circumstances, which the management considers fit and proper, provided reasons to that effect are recorded in writing. However, there is nothing on record to show the exact date of birth or age of the Workperson as on today. It is settled principle of law that Labour Court/Industrial Tribunal is not empowered to substitute its punishment, which was awarded to the Workperson. In the circumstances, the Workperson is entitled for reinstatement in service, if clause 9 of the 8th bipartite settlement at Exb.26 permits her.

43. The oral evidence of the Workperson on record indicates that she is unemployed and have no source of income, since the date of termination of her service. The Employer also failed to bring on record any cogent evidence to show that the Workperson is gainfully employed since the date of termination of her service till date.

Applying the law laid down by the Hon'ble Apex Court in its aforesaid judgment, the Workperson is also entitled for full back wages, continuity in service and all other consequential benefits. The Workperson is therefore ordered to be reinstated in the service of the Employer (if her age is below the prescribed age of retirement) along with full back wages, continuity in service and all other consequential benefits.

In view of above, I proceed to pass the following order:

#### ORDER

1. It is held that the action of the Management of the Goa Urban Co-op. Bank Ltd., Panaji-Goa, in dismissing from service its Workperson Smt. ArchanaKare, Clerk, with effect from 20-11-2012, is illegal and unjustified.
2. The management of the Employer namely the Goa Urban Co-op. Bank Ltd., Panaji-Goa, is

hereby directed to reinstate the Workperson Smt. Archana Kare (if her age is below the prescribed age of retirement) along with full back wages, continuity in service and all other consequential benefits.

3. No Order as to Cost.

Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar)  
Presiding Officer,  
Labour Court-II.

### Department of Personnel

#### Order

No. 7/30/2014-PER/90

On the recommendations of Goa Services Board and with the approval of the Government, the transfers of the following Officers are ordered with immediate effect, in public interest:-

SN	Name of the Officer	Transferred and posted as
1.	Smt. Nila Mohanan, IAS, Secretary (Education)	Collector, North vice Shri Agnelo A. J. Fernandes transferred.
2.	Shri Agnelo A. J. Fernandes, Collector, North	Director of Environment with addl. charge of Member Secretary, Goa Coastal Zone Management Authority vice Shri Narayan Gad transferred.
3.	Shri Narayan Gad, Director of Environment with addl. charge of Member Secretary, Goa Coastal Zone Management Authority	Awaiting posting.

This issues with the concurrence of Joint Chief Electoral Officer vide his letter No. 2-2-2008/Elec/ /112 dated 05-01-2017.

By order and in the name of the Governor of Goa.

Meghana Shetgaonkar, Under Secretary  
(Personnel-I).

Porvorim, 6th January, 2017.

**Order**

No. 22/8/2007-PER/92

The Governor of Goa is pleased to order the transfer and posting of the following IPS officers and GPS officers of Police Department, with immediate effect in public interest.

Sr. No.	Name of Officer	Present posting	Transfer on posting
1.	Smt. Chandan Choudhary, IPS	S. P. Commandant IRBn 1,2,3	S. P. (South District).
2.	Shri Karthik Kashyap, IPS	S. P. (Crime)	Supdt. of Police North District.
3.	Shri Shekhar Prabhudessai, GPS	S. P. (South District)	S.P. Commandant IRBn 1,2,3.
4.	Shri Umesh Y. Gaonkar, GPS	Supdt. of Police, North District	S. P. (Crime).

This issues with the approval of Election Commission of India conveyed vide letter No. 2/2-/2008-ELEC/161 dated 06-01-2017 from the Office of Chief Electoral Office, Altinho, Panaji-Goa.

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Personnel-II).  
Porvorim, 6th January, 2017.

**Order**

No. 6/13/2016-PER/121

On the recommendations of Goa Services Board and with the approval of the Government, the following Junior Scale Officers of Goa Civil Service are transferred and posted with immediate effect, in public interest.

Sr. No.	Name of the Officer and Designation	Posted as
1.	Shri Sudhir Kerkar, Asst. Commissioner of Excise-II	Deputy Director of Panchayat, North.
2.	Shri Kapil Phadte, Deputy Director of Panchayat, North	Administrator of Communi- dade, Central Zone thereby relieving Shri Pundalik Khorjuenkar of additional charge.

Smt. Trupti Manerkar, Under Secretary (Law-Estt) shall hold additional charge of the post of Dy. Collector, DRO, North, in addition to her own duties.

Shri Satyawar Bhivshet, Asst. Commissioner of Excise-I shall hold additional charge of the post of Asst. Commissioner of Excise in addition to his own duties.

All the above officers shall complete the process of handing over/taking over by 11-01-2017 from the date of issue of order and submit compliance.

This issues with the concurrence of Election Commission of India vide letter No. 437/6/GOA-LA/2017 dated 10-01-2017.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Additional Secretary (Personnel).

Porvorim, 10th January, 2017.

**Order**

No. 7/30/2014-PER/122

Read: Order No. 7/30/2014-PER B dated 12-12-2016.

Consequent to the order read in the preamble, Shri Sanjay Goel, IAS shall hold the charge of Department of Administrative Reforms and Factories & Boilers held by Shri Virendra Kumar, IAS with immediate effect in addition to his own duties.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Additional Secretary (Personnel).

Porvorim, 10th January, 2017.

**Department of Public Health****Order**

No. 5/1/2014-I/PHD/01

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/56(1)/2016/463 dated 15-12-2016, Government is pleased to promote Smt. Iva Maxie Fernandes, Senior Food Safety Officer in the Directorate of Food & Drugs Administration, Bambolim to the newly created post of Designated Officer (Group "A", Gazetted) in the pay scale of PB-3 Rs. 15,600-39,100 plus Grade Pay of Rs. 5,400/- on regular basis with immediate effect.

The above Officer shall be on probation for a period of two years.

The above Officer shall exercise her option for fixation of pay in the promotional grade, in terms provisions of F. R. 22 (I) (a) (1) within a period of one month from the date of issue of this Order. The option once exercised shall be final.

By order and in the name of the Governor of Goa.

*Smita Hede*, Under Secretary (Health-II).

Porvorim, 30th December, 2016.

---

**Order**

No. 4/9/2016-II/PHD/08

Read: Memorandum No. 4/9/2016-II/PHD dated 23-12-2016.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/30(6)/2016/477 dated 21-12-2016, Government is pleased to appoint Ms. Shweta Bhushan Savaikar to the post of Lecturer in Clinical Psychology, Allied Health Science Courses" (Group 'A', Gazetted) under the Goa Medical College, Bambolim, on temporary basis in the pay scale of Pay Band-3: Rs. 15,600-39,100+GP of Rs. 5,400 (pre-revised), with immediate effect and as per the terms and conditions contained in the Memorandum cited above.

Ms. Shweta Bhushan Savaikar shall be on probation for a period of two years.

Ms. Shweta Bhushan Savaikar has been declared medically fit by the Medical Board. Her appointment shall be subject to verification of character and antecedents by the concerned District Magistrate.

The above appointment is made due to creation of new post of Lecturer in Clinical Psychology vide Order No. 4/4/2013-II/PHD dated 05-05-2015.

By order and in the name of the Governor of Goa.

*Smita S. Hede*, Under Secretary (Health).

Porvorim, 30th December, 2016.

---

**Order**

No. 6/2/2016-III/PHD/10

Read: Memorandum No. 6/2/2016-III/PHD dated 16-12-2016.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/35(1)/2016/446 dated 08-12-2016, Government is pleased to appoint Dr. Anushka Da

Silva Pereira to the post of "Pathologist" (Group 'A', Gazetted) in the Institute of Psychiatry and Human Behaviour, Bambolim on temporary basis in the pay scale of Pay Band-3: Rs. 15,600-39,100+GP Rs. 5,400/- (pre-revised), with immediate effect and as per the terms and conditions contained in the Memorandum cited above.

Dr. Anushka Da Silva Pereira shall be on probation for a period of two years.

Dr. Anushka has been declared medically fit by the Medical Board. Her appointment shall be subject to verification of character and antecedents by the concerned District Magistrate.

The above appointment is made against the vacancy occurred due to the revival of the post of Pathologist vide Order No. 6/1/2008-III/PHD dated 13-08-2015.

By order and in the name of the Governor of Goa.

*Smita S. Hede*, Under Secretary (Health).

Porvorim, 30th December, 2016.

---

**Order**

No. 45/3/2009-I/PHD/08

Read: Memorandum No. 45/3/2009-I/PHD dated 12-07-2016.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/24(3)/2016/120 dated 09-06-2016, Government is pleased to appoint Dr. Rohan Fernandes to the post of Junior Gynaecologist (Group 'A', Gazetted) in the Pay Band-3, Rs. 15,600-39,100 with Rs. 5,400/-Grade Pay under the Directorate of Health Services with immediate effect as per the terms and conditions contained in the Memorandum cited above.

Dr. Rohan Fernandes shall be on probation for a period of two years.

Dr. Rohan Fernandes is posted against the post created at Primary Health Centre, Shiroda vide Order No. 48/1/2015-I/PHD/421 dated 08-03-2016.

Dr. Rohan Fernandes, has been declared medically fit by the Medical Board and his antecedents have been verified by the Additional District Magistrate, South Goa, Margao.

By order and in the name of the Governor of Goa.

*Smita S. Hede*, Under Secretary (Health-II)/Link.

Porvorim, 3rd January, 2017.

**Order**

No. 4/3/2008-IV/PHD/39

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/14(4)/2013/479 dated 22-12-2016, Government is pleased to declare Dr. Kennedy Mascarenhas, Lecturer, Department of Prosthodontics and Crown Bridge, Goa Dental College and Hospital as having completed satisfactorily his probation period of one year from 28-09-2015 to 27-09-2016 and also to confirm him in the said post of Lecturer in the Department of Prosthodontics and Crown Bridge, with effect from the date of his completion of probation period.

By order and in the name of the Governor of Goa.

*Smita Hede*, Under Secretary (Health).

Porvorim, 4th January, 2016.

**Certificate**

No. 4/10/2002-II/PHD/Vol. I/75

Read: Government Order No. 4/10/2002-II/PHD/ /Vol. I dated 18-11-2016.

Certified that the character and antecedents of Dr. Gauresh Shantaram Vargaonkar, Lecturer in Orthopedic Surgery in Goa Medical College and Hospital, Bambolim appointed vide in the above referred Order has been verified by the Addl. District Magistrate, North Goa District, Panaji-Goa and nothing adverse has come to the notice of the Government.

*Smita Hede*, Under Secretary (Health).

Porvorim, 9th January, 2016.

**Certificate**

No. 4/3/2008-II/PHD/83

Read: Government Order No. 4/3/2008-II/PHDI dated 01-11-2016.

Certified that the character and antecedents of Dr. Sanat Ramchandra Bhatkar, Assistant Professor of Neurology in Goa Medical College and Hospital, Bambolim appointed vide above referred order has been verified by the Addl. District Magistrate, North Goa District, Panaji-Goa and nothing adverse has come to the notice of the Government.

*Maria Seomara De Souza*, Under Secretary (Health).

Porvorim, 10th January, 2016.

**Certificate**

No. 4/7/2013-II/PHD/84

Read: Government Order No. 4/7/2013-II/PHDI dated 26-10-2016.

Certified that the character and antecedents of Dr. Urminda Jacqueline Wanda Viegas, Senior Medical Officer for Anti Retroviral Therapy Centre in Goa Medical College and Hospital, Bambolim appointed vide above referred order has been verified by the Addl. District Magistrate, South Goa District, Margao-Goa and nothing adverse has come to the notice of the Government.

*Maria Seomara De Souza*, Under Secretary (Health).

Porvorim, 10th January, 2016.

Department of Science, Technology & Environment

**Order**

No. 7/4/98/STE/DIR/Part I/386

In pursuance of the sub-rule (3) of Rule 5 of the Noise Pollution (Regulation & Control) Rules, 2000, the Government of Goa is pleased to direct the "authority" specified in the Government Notification No. 7/4/98/STE/DIR/Part I/922 dated 04-12-2007, published in the Official Gazette, Series II No. 37 dated 13-12-2007, Notification No. 7/4/98/STE/DIR/Part I/1545 dated 15-01-2010 and Notification No. 7/4/98/STE/DIR/Part I/104 dated 23-04-2015, to permit the use of loudspeakers or public address system during night hours (between 10.00 p.m. to 12.00 midnight) during the year 2017, on the days specified in the Schedule hereto, throughout the State of Goa.

"Terms and conditions for issue of permission.

1. The permission shall be granted only on a case-to-case basis, in response to a specific application made by the concerned Village Panchayat, Municipal Corporation/Municipal Council or an individual.
2. The provisions of the Noise Pollution (Regulation and Control) Rules, 2000 shall be strictly complied with.
3. The 'authority' concerned shall monitor the noise levels during the permitted festive occasion and take prompt remedial action in the event of any violation of the same and of above conditions."

## SCHEDULE

Sr. No.	Cultural/Religious Festive occasion	Date
1.	Carnival (last day of Carnival)	28th February, 2017
2.	Holi	12th March, 2017
3.	Easter Eve	26th March, 2017
4.	Ganesh Chaturthi (2nd day of idol immersion)	26th August, 2017
5.	Ganesh Chaturthi (5th day of idol immersion)	29th August, 2017
6.	Anant Chaturdashi	05th September, 2017
7.	Navaratri (1st day of Navaratri)	21st September, 2017
8.	Navaratri (last day of Navaratri)	29th September, 2017
9.	Kojagiri Poornima	05th October, 2017
10.	Diwali Eve	17th October, 2017
11.	Diwali	18th October, 2017
12.	Tripurari/Kartiki Purnima	03rd November, 2017
13.	Christmas Eve	24th December, 2017
14.	Christmas	25th December, 2017
15.	New Year's Eve	31st December, 2017

By order and in the name of the Governor of Goa.

Shri Agnelo A. J. Fernandes, Director & ex officio Joint Secretary (Environment).

Saligao, 11th January, 2017.

## Department of Women &amp; Child Development

Directorate of Women & Child Development

## Notification

No. 2-103(69)2016/DWCD/8550

Read: Notification No. 2-103(69)-2014/DWCD/10524 dated 09-12-2014.

Consequent to the resignation dated 1-12-2016 conveyed by Mr. Francis Braganza, Chairperson, Child Welfare Committee, North Goa District, Apna Ghar, Mercers Goa, constituted vide above referred notification, the Government of Goa is pleased to appoint the below mentioned person next on the waiting list as the Chairperson of the Child Welfare Committee, North Goa District in place of Mr. Francis Braganza with effect from 01-01-2017.

Sr. No.	Name	Address	Designation
1.	Smt. Amruta Abhay Kamat	H. No. 303, Ganeshkrupa, Juwarwada Tivre, Marcela, Goa	Chairperson

All other terms and conditions of the Notification dated 09-12-2014 remains the same.

By order and in the name of the Governor of Goa.

Shilpa Shinde IAS, Director (W&CD).

Panaji, 13th January, 2017.

[www.goaprintingpress.gov.in](http://www.goaprintingpress.gov.in)

Published and Printed by the Director, Printing & Stationery,  
Government Printing Press,  
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 20.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-309/350-1/2017.